

Georgia Rules and Regulations Administrative Bulletin for September 2022

OFFICE OF SECRETARY OF STATE ADMINISTRATIVE PROCEDURE DIVISION

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Department 110. RULES OF GEORGIA DEPARTMENT OF COMMUNITY AFFAIRS

Chapter 110-9. JOB TAX CREDIT PROGRAM

Subject 110-9-1. JOB TAX CREDIT PROGRAM REGULATIONS

110-9-1-.01 Introduction and Definitions

(1) **Authority for Regulations.** O.C.G.A. § [48-7-40](#), § [48-7-40.1](#), § [48-7-40.23](#), and § [36-62-5.1](#).

(2) **Administrative Agencies.** The Georgia Department of Community Affairs (DCA) and the Georgia Department of Revenue have been designated as the responsible agencies within the State of Georgia to administer the Job Tax Credit Program for less developed areas.

(3) **Program Purpose.** The purpose of the Job Tax Credit Program is to encourage the further economic development of the state.

(4) **Program Objective.** The Job Tax Credit Program is designed to encourage businesses to locate and expand in the state.

(5) **Program Description.** The Job Tax Credit Program provides tax credits under O.C.G.A. § [48-7-2](#) for certain business enterprises that create and retain jobs in areas designated as less developed. A minimum number of new full-time employee jobs must be created before any credit may be received.

(6) **Definitions.**

(a) **Less Developed Areas** -- means certain counties and certain census tract areas that meet applicable requirements in law and regulation. Less developed census tract areas mean areas in this state which are composed of 10 or more contiguous census tracts, each of whom is equal to or worse than the benchmark county based on a calculation of the following economic indicators: highest unemployment rate; lowest per capita income; and highest percentage of residents whose income is below the poverty level. Comparisons between census tracts and the benchmark county will be based on data from the Department of Labor and the United States Department of Commerce.

(b) **Business Enterprise** -- means any corporation, partnership, limited liability company, or sole proprietorship, or the headquarters of any such corporation, partnership, limited liability company, or sole proprietorship, which is engaged in manufacturing, warehousing and distribution, processing, telecommunications, broadcasting, research and development, or tourism in a less developed area. Such term does not include retail businesses. The definition of Business Enterprise under the county tier program in O.C.G.A. § [48-7-40](#) shall also include any business which is engaged in services for the elderly and persons with disabilities. For the purpose of determining which businesses are engaged in the qualifying activities, classifications will be made for individual establishments defined pursuant to Department Rule 110-9-1-.01(6)(d) using the North American Industry Classification System (NAICS Code), United States, 2017, with the business being eligible for the tax credit based on the individual establishment. If the NAICS Code cannot be clearly defined, the business may request a determination as outlined in Department Rule [110-9-1-.03\(11\)](#).

1) **Manufacturing** means those establishments classified by the NAICS Code that belong to Sectors 31-33.

2) **Warehousing and distribution** means a warehouse, facility, structure, or enclosed area which is used primarily for the storage, shipment, preparation for shipment, or any combination of such activities, of goods, wares, merchandise, raw materials, or other tangible personal property, and those establishments classified by the NAICS Codes that belong to Subsectors 423, 424 and 493. In addition, establishments primarily engaged in scheduled

freight air transportation, and included in NAICS Code 481112; establishments primarily engaged in nonscheduled chartered freight air transportation, and included in NAICS Code 481212; establishments primarily engaged in line-haul railroads; establishments primarily engaged in short line railroads, and included in NAICS Code 482112; establishments which are primarily engaged in deep sea freight transportation, and included in NAICS Code 483111; 483211, establishments primarily engaged in inland water freight transportation; 484110, establishments primarily engaged in general freight trucking, local; 484121, establishments primarily engaged in general freight trucking, long-distance, truckload; 484122, general freight trucking, long distance, less than truckload; 484220, establishments engaged in specialized freight (except used goods) trucking, local; 484230, establishments in specialized freight (except used goods) trucking, long-distance; 485111, establishments engaged in mixed mode transit systems; 486110, establishments primarily engaged in pipeline transportation of crude oil; 486210, establishments primarily engaged in pipeline transportation of natural gas; 486910, establishments primarily engaged in pipeline transportation of refined petroleum products; 486990, establishments engaged in all other pipeline transportation; 488320, establishments which are primarily engaged in marine cargo and handling; 488510 establishments primarily engaged in freight transportation arrangement are included. In addition, NAICS Code 541611 is eligible, but only as it associates to establishments that provide consulting services to clients relating to the physical distribution of goods and services.

3) Processing includes, without limitation, (a) manufacturing establishments classified in NAICS Sectors 31-33; and (b) those establishments primarily engaged in providing data processing services, and further means only the following establishments in addition to Sectors 31-33 of the NAICS Code: establishments that are both primarily engaged in providing third party administration services of insurance and pension funds, and included in NAICS Code 524292; establishments that are both primarily engaged in providing automated clearinghouses, check clearinghouse associations, and included in NAICS Code 522320; establishments that are both primarily engaged in furnishing physical or electronic marketplaces for the purpose of facilitating the buying and selling of stocks, stock options, bonds or commodity contracts and included in NAICS Code 523210; establishments that are both primarily engaged in providing computer systems design and related services, and included in NAICS Industry Group 5415; establishments that are both primarily engaged in producing and distributing computer software, and included in NAICS Code 511210; establishments that are both primarily engaged in providing data processing services, and included in NAICS Code 518210; establishments that are both primarily engaged in providing payroll services, and included in NAICS Code 541214; establishments that are both primarily engaged in providing financial transaction or credit card processing services, and included in NAICS Code 522320, and establishments that are both primarily engaged in providing telephone call center services, and included in NAICS Industry 56142.

4) Telecommunications means those establishments that are primarily engaged in operating, maintaining and/or providing access to facilities for the transmission of voice, data, text, sound and video and classified within NAICS Codes 517311, 517312, 517911 and 517919.

5) Broadcasting means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the Internet or Internet Protocol and includes motion picture and sound recording, editing, production, postproduction, and distribution, and is limited to those establishments that are primarily engaged in broadcasting and included in NAICS Subsector 515; establishments that are primarily engaged in Internet publishing and broadcasting and included in NAICS Subsector 519; establishments that are primarily engaged in telecommunications and included in NAICS Subsector 517; and establishments that are primarily engaged in motion picture and sound recording industries and included in NAICS Subsector 512.

6) Research and development means only the following establishments: establishments primarily engaged in conducting research and experimental development in the physical, engineering and life sciences and classified in NAICS Industries 54171; and establishments primarily engaged in conducting research and analyses in cognitive development, sociology, psychology, language, behavior, economic, and other social science and humanities research and classified in NAICS Code 541720.

7) Tourism means only the following establishments: establishments that are both primarily engaged in providing lodging for the public, and included in NAICS Industry Group 7211, provided that establishments offering lodging for more than 30 consecutive days to the same customer shall not qualify for a tax credit under this provision; establishments that are both primarily engaged in providing overnight or short term sites for recreational vehicles,

trailers, campers or tents, and included in NAICS Code 721211, provided that establishments primarily engaged in the operation of residential trailer parks or primarily engaged in providing accommodations for more than 30 consecutive days to the same customer shall not qualify for a tax credit under this provision; establishments that are both primarily engaged in the operation of convention centers, and included in NAICS Code 711310; establishments that are both primarily engaged in the operation of sports stadiums or arenas, and included in NAICS Code 711310; establishments that are both primarily engaged in the operation of recreational camps, and included in NAICS Code 721214, provided that establishments primarily engaged in the operation of summer camps shall not qualify for a tax credit under this provision; establishments that are both primarily engaged in the operation of golf courses open to the general public on a contract or fee basis, which are associated with a resort development, and included in NAICS Code 713910, provided that establishments primarily engaged in the operation of golf courses associated with housing developments shall not qualify for a tax credit under this provision; establishments that are both primarily engaged in the operation of sports complexes open to the general public on a contract or fee basis, and included in NAICS Code 711310; establishments that are both primarily engaged in the operation of professional or semi-professional sport clubs, and included in NAICS Code 711211, provided that for the purposes of this provision professional and semi-professional sport clubs include only those clubs which compensate athletes for their services as players and such term does not include amateur sport clubs, amateur sport leagues, or amateur sport associations; establishments that are both primarily engaged in the operation of racing facilities, including drag-strips, motorcycle race tracks, auto or stock car race tracks or speedways, and included in NAICS Code 711212; establishments that are both primarily engaged in the operation of amusement centers, amusement parks, theme parks, or amusement piers, and included in NAICS Code 713110; establishments that are both primarily engaged in the operation of tours within the State of Georgia, and included in NAICS Code 561520; establishments that are both primarily engaged in the operation of airplanes, helicopters, buses, trolleys, vans, scenic railroads, aerial tramways, or boats for excursion or sightseeing purposes within the State of Georgia, and included in NAICS Subsector 487; establishments that are both primarily engaged in the operation of hunting preserves, trapping preserves, or fishing preserves or lakes which are open to the general public on a contract or fee basis for fin fish, shell fish, or other marine fishing, which are included in NAICS Codes 114111, 114112, 114119, and 114210; and establishments that are both primarily engaged in the operation of museums, planetariums, art galleries, botanical gardens, aquariums, or zoological gardens, and included in NAICS Subsector 712, provided that establishments which derive 50% or more of their gross revenue from the sale of goods or merchandise shall not qualify for a tax credit under this provision.

8) Services for the elderly and persons with disabilities means establishments primarily engaged in providing nonresidential social assistance services to improve the quality of life for the elderly, persons diagnosed with intellectual and developmental disabilities, or persons with disabilities and included in NAICS Code 624120. The inclusion of this industry under the Business Enterprise definition is only applicable to establishments which qualify for the job tax credit under the county tier provision under O.C.G.A. § [48-7-40](#) and is not applicable to establishments which qualify for the census tract provision under O.C.G.A. § [48-7-40.1](#).

(c) Retail Business -- means any establishment that is primarily engaged in retailing merchandise and rendering services incidental to the sale of merchandise and included in NAICS Sector 44-45; any establishment that is primarily engaged in providing professional services and included in NAICS Industry Groups 5411, 5412 and 5413; and establishments that are primarily engaged in banking, savings and lending functions and included in NAICS Industry Groups 5211, 5221, 5222, 5231, and 5239, and NAICS Industries 52231 and 52239.

(d) Establishment -- means an economic unit at a single physical location where business is conducted or where services or industrial operations are performed. This is specifically where an employee's job is performed. Note that if more than one business activity is conducted at the establishment then only those jobs engaged in a qualifying activity will be eligible. For example, a retail establishment which also has a distribution activity serving the southeast will only be eligible for the jobs engaged in the qualifying distribution activity and not for any retail jobs.

(e) Benchmark County -- means the county according to the most recent data from the Department of Labor and the United States Department of Commerce that ranks seventy-first from the bottom county on the following factors: highest unemployment rate; lowest per capita income; and highest percentage of residents whose income is below the poverty level. This county's scores will be the benchmark for determining census tracts that are potentially eligible for inclusion in less developed census tract areas.

(f) Competitive project -- means the expansion or location of some or all of a business enterprise's operations in this state having significant regional impact where the commissioner of economic development certifies that but for some or all of the tax incentives provided under O.C.G.A. § [48-7-40](#), the business enterprise would have located or expanded outside this state. Businesses claiming the tax credit under this provision must provide certification from the commissioner of economic development when claiming such credit on the Georgia Corporation Income Tax return.

(g) New Full-Time Employee Job (also "New Job") -- means a newly created position of employment by a Georgia employer, requires a minimum of 35 hours worked each week, and pays at or above the average wage earned in the county with the lowest average wage in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor, but does not mean a job classified for federal tax purposes as an independent contractor. This determination occurs when a new or expanded operation is first staffed and does not include staff replacement or transfer.

1) Part-time jobs that become full-time jobs shall be considered new full-time employee jobs for the purposes of the Job Tax Credit Program. Part-time jobs may not be aggregated to establish full-time equivalents for the purposes of the Job Tax Credit Program.

2) Leased employees will, for the purposes of the Job Tax Credit Program, be considered employees of the company using the services of the leased employees. Leased employees and other employees may be counted toward new job totals for purposes of determining a business enterprise's job tax credit when such employees otherwise meet the definition of full-time job contained herein. Leased employees and other employees that do not meet the definition of full-time job contained herein may not be counted toward job totals. (Note that only the business enterprise using the services of leased employees may claim credit for such employees so long as the business enterprise retains control of the business location and does not delegate such control to the leasing company.)

3) Special circumstances affecting the ability for employees to count new full-time employee jobs include the following:

(i) When a business purchases or leases existing assets and uses those assets for a substantially different process than their immediate prior use, the rule does not apply, and no approval is required from the commissioner of community affairs.

(ii) When a seasonal business purchases or leases existing assets, the assets must have been out of service for one year or longer unless otherwise approved by the commissioner of community affairs.

(iii) Any time a business is uncertain whether or not new jobs have been created based on this paragraph, the business shall seek a ruling from the commissioner of community affairs before claiming any credits.

(h) Headquarters -- means the global or national administrative offices of a business enterprise that is primarily engaged in performing management and general administrative functions for such business enterprise. If a business has headquarters that provides services to business enterprises, such business must derive at least 51 percent of its sales from the operations of its business enterprises in order for such business's headquarters to be potentially eligible for tax credits under these regulations.

(i) Maintained Job -- means any new full-time employee job continued for all or part of the consecutive four-year period after its creation.

(j) Military Zone -- means an area designated by the commissioner of community affairs under the provision of O.C.G.A. § [48-7-40.1\(c\)\(2\)](#) or (2.1).

1) For Military Zones designated under the provision of O.C.G.A. § [48-7-40.1\(c\)\(2\)](#), the designation shall include any "area composed of one or more census tracts adjacent to a federal military installation where pervasive poverty is evidenced by a fifteen (15) percent poverty rate or greater as reflected in the most recent decennial census."

2) For Military Zones designated under the provision of O.C.G.A. § [48-7-40.1\(c\)\(2.1\)](#), census tracts may be designated by the commissioner of community affairs to receive Military Zone designation if the census tract is in a county that contains a federal military installation with a garrison of at least 5,000 federal or military personnel combined, and contains an industrial park that is owned and operated by a governmental entity.

3) Any designation made by the commissioner of community affairs under O.C.G.A. § [48-7-40.1\(c\)\(2\)](#) or (2.1) shall be made by December 31 of each year.

4) Businesses locating within a designated Military Zone must meet all eligibility requirements for the Job Tax Credit prior to filing for the credit on the tax return.

(k) Government Owned Industrial Park -- means an Industrial Park, that at the time of formation or establishment, was wholly owned by one or more units of state, local municipal government, including any eligible authority, and which is intended to market, attract, and locate private industrial business operations.

(l) Industrial Park -- means an area comprised of 25 acres or more of developable land, which has been zoned industrial or its equivalent if industrial zoning does not exist within the applicable jurisdiction. The area shall also contain readily available water and sewer infrastructure on-site or at a minimum, adjacent to the site.

(m) Opportunity Zone -- means an area designated by the commissioner of community affairs, with the agreement of the commissioner of economic development, under the provision of O.C.G.A. [48-7-40.1\(c\)\(4\)](#) and Department Rule 110-24-1. Businesses locating within a designated Opportunity Zone must meet all eligibility requirements for the Job Tax Credit and have an Opportunity Zone Certification form certified by the local Opportunity Zone coordinator and acknowledged by DCA prior to filing the tax credit on the corporation income tax return. The completed Certification form must be filed with the tax return when claiming the credit.

(n) Prior Year/Base Year -- means the tax year immediately prior to Year One.

(o) Replacement Job -- means a job created by an employer in Georgia that takes the place of a job that was interrupted due to a manmade or natural disaster. Neither the length of the interruption nor the location of the replacement job will affect eligibility for the Job Tax Credit Program.

(p) To Generate/Trigger Credits -- means to meet all requirements in law and regulation for the tax credits allowed under O.C.G.A. § [48-7-2](#) except for maintenance of jobs in all or part of the subsequent four years after their creation. Credits are not affected by a county's or census tract area's status once credits have been generated.

(q) Transferred Job -- means a job that is relocated by a business or related businesses from one Georgia establishment to another, or a job that is created by a business or related business that is substantially the same as a previously existing job of such business or related business at a location in Georgia that has ceased operations for six months or less. Because the Job Tax Credit is calculated by taxpayer, by county or census tract area, jobs that are relocated from one establishment to another within the same county or census tract area by the same taxpayer are not considered transferred jobs. If the duties of a transferred job are substantially different from those at the former location, the business may request in writing that the commissioner of community affairs determine whether or not the job is a new job for the purposes of the Job Tax Credit Program. Only after the commissioner of community affairs has determined that the job is a new job may any credits be earned. Similarly, new jobs that are transferred during years one through five from their original location to another county or less developed census tract area may not earn credits after their transfer unless otherwise approved by the commissioner of community affairs.

(r) Telecommuter employee job -- means a newly created position of employment by a Georgia employer *only* during tax years 2020, 2021 or 2022, requires a minimum of 35 hours worked each week at a location that may not necessarily be at the establishment location, and pays at or above the average wage earned in the county with the lowest average wage in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. This does not mean a job classified for federal tax purposes as an independent contractor. This does not include staff replacement or transfer. This does not include telecommuting from out-of-state. The telecommuting employee must live and work in Georgia to qualify for the job tax credit program under this definition.

1) Current employees who are being counted for the job tax credit program and become telecommuters during the COVID-19 crisis during tax years 2020, 2021 or 2022 may continue to be counted as a qualified job for purposes of the job tax credit program, as long as all of the requirements including wages, hours, and health insurance are being met while being a telecommuter.

2) Part-time telecommuter jobs that become full-time jobs shall be considered a new full-time telecommuter employee jobs for the purposes of the Job Tax Credit Program under this special definition. Part-time jobs may not be aggregated to establish full-time equivalents for the purposes of the Job Tax Credit Program.

(s) Year One -- means the tax year in which sufficient new jobs are created that, meeting the requirements of these regulations, entitle a business enterprise to tax credits in years one through five after the creation of the new jobs.

(t) Years One Through Five -- means the consecutive five-year period in which job tax credits may be allowed for the new jobs created in year one as well the subsequent four years in which additional new jobs may be created that may also qualify for job tax credits.

(u) Auxiliary Establishment -- means an establishment primarily engaged in performing management or support services for other establishments of the same business. Auxiliary establishments will be included in the definition of business enterprise only when they are primarily engaged in providing the products or services provided by otherwise eligible business enterprises.

(v) Leased Employee -- means an employee of an employee leasing company, as defined by the O.C.G.A. § [34-8-32](#) paragraph (a). Leased employees will, for the purposes of the Job Tax Credit Program, be considered employees of the company using the services of the leased employees. Leased employees and other employees may be counted toward new job totals for purposes of determining a business enterprise's job tax credit when such employees otherwise meet the definition of full-time job contained herein. Leased employees and other employees that do not meet the definition of full-time job contained herein may not be counted toward job totals. Only the business enterprise using the services of leased employees may claim credit for such employees so long as the business enterprise retains control of the business location and does not delegate such control to the leasing company.

(w) Wage -- means the total dollars paid (including bonuses, incentive pay, etc.) to the employee (whether hourly or salaried) during the year (i.e., income as reported on Form W-2). Wage does not mean contributions made by employers on behalf of employees to health insurance, retirement, or other benefit programs. This definition is consistent with and patterned after the definition of average weekly wages contained in the most recent annual *Georgia Employment and Wages Averages Report*. The wage requirement must be met each and every year the employee/job is being used to calculate the credit in each of the Years 1-5.

Cite as Ga. Comp. R. & Regs. R. 110-9-1-.01

AUTHORITY: O.C.G.A. §§ [48-7-40](#), [48-7-40.1](#), [36-62-5.1](#).

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Amended: F. Sep. 9, 2022; eff. Sep. 29, 2022.

110-9-1-.02 Designation of Tier Status of Georgia Counties/Designation of Less Developed Census Tract Areas

(1) **Timetable and Effective Dates for Designation of Tier Status of Georgia Counties/Designation of Less Developed Census Tract Areas.** Using the most current data available from the Department of Labor and the United States Department of Commerce, the commissioner of community affairs shall rank and designate all 159 counties in Georgia. And using the most current data available from the Department of Labor and the United States Department of Commerce, the commissioner of community affairs shall rank and designate certain less developed census tract areas.

(a) For the purpose of determining the number of new jobs created, business enterprises shall use their first tax year that begins on or after January 1 of the calendar year in which a census tract is designated as less developed or in which a county is designated as a tier 1, tier 2, tier 3, or tier 4 county, unless otherwise approved by the commissioner of community affairs.

(2) **Ranking and Designation of Tier Status of Georgia Counties.** A combination of the following factors will be used in ranking counties: highest unemployment rate for the most recent 36-month period; lowest per capita income for the most recent 36-month period; and highest percentage of residents whose incomes are below the poverty level according to the most recent data available.

(a) Counties ranked and designated as the first through seventy-first least developed counties shall be classified as tier 1, counties ranked and designated as the seventy-second through one hundred sixth least developed counties shall be classified as tier 2, counties ranked and designated as the one hundred seventh through one hundred forty-first least developed counties shall be classified as tier 3, and counties ranked and designated as the one hundred forty-second through one hundred fifty-ninth least developed counties shall be classified as tier 4.

(b) The factors used in ranking counties will all be given equal weight.

(c) In the case of a tie that would place tied counties in two different categories (tier 1, tier 2, tier 3, or tier 4), the tie will be broken in the following manner: the county with the highest average unemployment rate will be in the lower category (e.g., tier 1 if the split is between tier 1 and tier 2). If the counties are tied on highest average unemployment rate, the county with the lowest average per capita income will be in the lower category. If the counties are tied on both highest average unemployment rate and lowest average per capita income, the county with highest percentage of poverty will be in the lower category. If the counties are tied on all three categories, the commissioner of community affairs shall determine which county falls into each category.

(3) **Ranking and Designation of Ten or More Contiguous Census Tracts as Less Developed Areas.** Using data from the Department of Labor and the United States Department of Commerce, a combination of the following factors will be used in ranking counties in order to help determine the less developed census tract areas: highest unemployment; lowest per capita income; and highest percentage of residents whose income is below the poverty

level. The county that ranks seventy-first from the bottom on these factors will be the benchmark county used to determine which census tracts are potentially eligible for inclusion in a less developed census tract area.

(a) All census tracts in the state and the benchmark county will be ranked using the following factors: highest unemployment; lowest per capita income; and highest percentage of residents whose income is below the poverty level. Data used to rank the tracts and the benchmark county will be from the Department of Labor and the United States Department of Commerce. All census tracts that are equal or lower in rank than the benchmark county will be eligible for inclusion in a less developed census tract area if they can be grouped as part of 10 or more contiguous census tracts that are also eligible for inclusion in a less developed census tract area.

(b) Groupings of 10 or more eligible census tracts will be determined according to the following rules:

1) all eligible census tracts will be grouped into less developed census tract areas that are as large as possible but never in groupings of less than 10;

2) groupings may cross county boundaries; and

3) all census tracts in a grouping must be contiguous.

(c) All factors used in ranking census tracts and counties for the purpose of determining less developed census tract areas will be given equal weight.

(4) Redesignation of Tier Status of Georgia Counties/Designation of Less Developed Census Tract Areas Based on a Period of Economic Distress. Any tier 3 county which, in the opinion of the commissioner of community affairs, undergoes a sudden and severe period of economic distress caused by the closing of one or more business enterprises located in such county may be eligible for tier 2 designation. Also, any tier 2 county which, in the opinion of the commissioner of community affairs, undergoes a sudden and severe period of economic distress caused by the closing of one or more business enterprises located in such county may be eligible for tier 1 designation. In addition, any area composed of ten or more contiguous census tracts which undergoes a sudden and severe period of economic distress caused by the closing of one or more business enterprises located in such area may be eligible for designation as a less developed census tract area; or any area composed of one or more contiguous census tracts which, in the opinion of the commissioner of community affairs, with the agreement of the commissioner of economic development, is or will be adversely impacted by the loss of one or more jobs, businesses, or residences as a result of an airport expansion, including noise buy-outs, or the closing of a business enterprise located within such area which, in the opinion of the commissioner of community affairs, with the agreement of the commissioner of economic development, results or will result in a sudden and severe period of economic distress.

(a) In order to receive consideration for designation as a tier 2 or tier 1 county based on a sudden and severe period of economic distress caused by the closing of one or more business enterprises, a county must request designation from the commissioner of community affairs and must show actual job losses that exceed the following threshold criteria:

1) If the unemployment rate of the county has exceeded the state's average unemployment rate for the previous 3 months, the dislocation must amount to at least 2 percent of the county's labor force.

2) If the unemployment rate of the county was equal to or less than the state's average unemployment rate for any of the previous 3 months, the dislocation must amount to at least 4 percent of the county's labor force.

3) Documentation of the closing of the business enterprise must generally be provided in the form of a letter from such business enterprise validating the closure, documentation of the closure on the web site (for business enterprises subject to the WARN ACT) for the State Entity designated to receive WARN ACT notices, and local press releases announcing such closure and the effect of such closure on the community. For purposes of this provision, a closure will be defined based on the WARN ACT; Public Law 100-379 Section 2(a)(2) as the permanent shutdown of a single business establishment, or one or more facilities or operating units within such

establishment, if the shutdown results in an employment loss at the establishment during any 30-day period for 50 or more employees excluding any part-time employees.

(b) Counties/census tract areas designated as tier 2 or tier 1 counties or as less developed census tract areas under the provisions of this paragraph will remain designated for one year. After one year, such counties/census tract areas may ask the commissioner of community affairs to be redesignated for additional years if documentation is provided that demonstrates a continuing period of economic distress. Documentation of continuing distress should include:

1) Information on the local community's efforts to fill the affected space and create new jobs;

2) Details on the impact of the business loss on:

(a) the local community; and

(b) the state;

3) Information on the current job market in the affected area of the local community; and

4) Any additional information to be considered for such designation.

(c) No designation pursuant to this paragraph shall displace or remove any other county/census tract area designated as a tier 2 or tier 1 county or as a less developed census tract area pursuant to paragraphs (2) or (3) of Department Rule 110-9-1-.02.

(d) In order to receive consideration for designation as a less developed census tract area based on the closing of one or more business enterprises, an area must request designation from the commissioner of community affairs and must provide documentation sufficient to support that major job losses have occurred or will occur within such area. Any portion of one or more such contiguous census tracts may be currently designated as part of an existing less developed census tract area. In addition, one or more such contiguous census tracts must meet the criteria in paragraph (3)(b) 2) and (3)(b) 3) of Department Rule 110-9-1-.02. Notwithstanding any provision of this subparagraph to the contrary, any area composed of one or more contiguous census tracts which is or will be adversely impacted by the loss of one or more jobs, businesses, or residences as a result of an airport expansion, including noise buy-outs, may be designated as a less developed census tract area. In order to be considered for designation as a less developed census tract the area requesting designation must show actual job losses that exceed the following threshold criteria:

1) If the unemployment rate of the area requesting designation has exceeded the state's average unemployment rate for the previous 3 months, the dislocation must amount to at least 2 percent of the area's labor force.

2) If the unemployment rate of the area requesting designation was equal to or less than the state's average unemployment rate for any of the previous 3 months, the dislocation must amount to at least 4 percent of the area's labor force.

3) Documentation of the closing of the business enterprise must be provided in the form of a letter from such business enterprise validating the closure, documentation of the closure on web site (for business enterprises subject to the WARN ACT) for the State Entity designated to receive WARN ACT notices, and local press releases announcing such closure and the effect of such closure on the community. For purposes of this provision, a closure will be defined based on the WARN ACT; Public Law 100-379 Section 2(a)(2) as the permanent shutdown of a single business establishment, or one or more facilities or operating units within such establishment, if the shutdown results in an employment loss at the establishment during any 30-day period for 50 or more employees excluding any part-time employees.

(e) At any time, a request for designation based on a sudden and severe period of economic distress is sought that meets the criteria established in law and regulation, the commissioner may grant such designation for a specified period of time. At any time, a request for less developed census tract designation based on a sudden and severe period of economic distress is sought that meets the criteria established in law and regulation, the commissioner will

determine if the request meets the provision for designation and obtain the agreement of the commissioner of economic development prior to issuing an opinion on the request.

(5) Procedures to Ensure Business Enterprises Can Claim Credits in Future Years. For business enterprises which plan a significant expansion in their labor forces, the following procedures ensure the business can claim credits in future years based on the pre-existing tier status, military zone designation, or less developed census tract designation and without regard to a particular county or census tract being reclassified in the annual ranking. A business enterprise which plans for growth and expansion of its labor force may file a notice of intent with the commissioner of community affairs to preserve the benefits associated with the tier status, military zone designation, or less developed census tract designation in an area that has been reclassified (for example, bottom 40, tier 1, tier 2, or tier 3 county that has received a new ranking, or a less developed census tract in a tier 2, tier 3, or tier 4 community that has lost its designation). The notice of intent shall state the county/census tract area in which the business enterprise plans to locate or expand, the number of new jobs to be created, and the anticipated period in which these jobs will be created. The notice of intent may only be filed for business enterprises which plan to create jobs within three years of the date the notice of intent, except when evidence satisfactory to the commissioner of community affairs is submitted that demonstrates a high probability that significant job creation will result within the time-frame submitted in the notice of intent. Once accepted by the commissioner, the notice of intent will preserve the prior county tier status, military zone designation, or census tract designation and allow the business enterprise to claim the related job tax credits for the three-year time-frame protected by the notice of intent provided all other program requirements are satisfied as specified in these regulations and in the O.C.G.A. § [48-7-40](#), [48-7-40.1](#), and [36-62-5.1](#).

(a) The Notice of Intent procedures described in these regulations are intended to protect companies, for the limited period of three years, from the results of the annual re-ranking of counties and census tracts. These procedures, however, do not protect companies from changes in law unless otherwise specified in law. Protection provided by Notices of Intent include the following potential impacts from re-ranking: changes in business eligibility due to ranking outside of bottom 40 counties, changes in tax credit amount, changes in job threshold, changes in limitations in the amount of tax liability that may be offset, and changes in ability to apply credits against payroll withholding.

(b) Notices of Intent must be filed on or before March 31st of the calendar year first affected by the change in county or census tract designation. The business must include the name of the business, the location address of the business establishment creating the jobs, the type of business establishment including the NAICS code, and a valid contact on the submitted Notice of Intent.

(c) Notices of Intent apply to the three-year period that begins January 1st of the year in which the Notice of Intent is filed, unless evidence satisfactory to the commissioner of community affairs is submitted that demonstrates a high probability that significant job creation will result within a future three-year time frame specifically outlined in the Notice of Intent. However, in no case may the period secured by the Notice of Intent extend beyond three consecutive years nor beyond five years from the date of filing the initial Notice of Intent.

(d) Only new jobs created during the three-year Notice of Intent period are eligible to claim the tax credit benefits preserved by the Notice of Intent. Maintained jobs, which are eligible for five years of credits, may still claim these benefits after the Notice of Intent period has lapsed.

(e) Notices of Intent may be updated or amended by any business enterprise not more often than once a year. Should a county be reclassified to a more beneficial tier status during the Notice of Intent period, the business enterprise may elect to claim tax credits based on the more beneficial ranking for any new jobs created.

(6) Job Tax Credit Program Alternative for Tax Years Beginning 2020 and 2021.

(a) Personal Protective Equipment (PPE) manufacturer job tax credits are claimed as provided in Department of Revenue Regulation 560-7-8-.66.

(b) These regulations are further amended by adding a new subsection related to designation of counties as less developed areas and tax credits for certain business enterprises, to read as follows:

1) For the taxable years beginning in 2020 and 2021, a taxpayer with a business enterprise that in the taxable year beginning on or after January 1, 2019, and before December 31, 2019, was claiming a job tax credit shall have the option to utilize the number of new full-time employee jobs that the taxpayer claimed in such taxable year or to continue calculating their credit as in prior years based on the number of net new full-time employee jobs that the taxpayer added during the tax year (for both 2020 and 2021).

Cite as Ga. Comp. R. & Regs. R. 110-9-1-.02

AUTHORITY: O.C.G.A. §§ [48-7-40](#), [48-7-40.1](#), [36-62-5.1](#).

HISTORY: Original Rule entitled "Designation of Tier Status of Georgia Counties/Designation of Less Developed Census Tract Areas" adopted as ER. 110-9-1-0.2-.02. F. June 16, 1995; eff. June 14, 1995, the date of adoption.

Amended: Permanent Rule of same title adopted. F. Aug. 17, 1995; eff. Sept. 6, 1995.

Amended: F. Feb. 27, 1998; eff. Mar. 19, 1998.

Amended: F. Dec. 11, 2000; eff. Dec. 31, 2000.

Repealed: New Rule of same title adopted. F. Apr. 23, 2002; eff. May 13, 2002.

Amended: F. Apr. 18, 2003; eff. May 8, 2003.

Amended: F. Aug. 21, 2006; eff. Sept. 10, 2006.

Amended: F. Jan. 14, 2008; eff. Feb. 3, 2008.

Repealed: New Rule of same title adopted. F. Oct. 30, 2009; eff. Nov. 19, 2009.

Amended: F. Oct. 22, 2013; eff. Nov. 11, 2013.

Amended: F. Dec. 2, 2016; eff. Jan. 1, 2017, as specified by the Agency.

Amended: F. Feb. 28, 2017; eff. Feb. 8, 2017, as specified by the Agency.

Amended: F. Aug. 22, 2018; eff. Sept. 11, 2018.

Amended: F. June 2, 2020; eff. June 22, 2020.

Amended: F. Sep. 14, 2020; eff. Oct. 4, 2020.

Amended: F. Nov. 23, 2020; eff. Dec. 13, 2020.

Amended: F. Sep. 9, 2022; eff. Sep. 29, 2022.

Department 430. RULES OF GEORGIA STATE BOARD OF EXAMINERS IN OPTOMETRY

Chapter 430-2. REGISTRATION

430-2-.08 Volunteers in Optometry

(1) The Board shall issue a volunteer license to optometrists who:

(a) Submits an application for a volunteer license to the Board; and

(b) Holds a current, unrestricted license in good standing to practice optometry in any licensing jurisdiction of the United States; or if the applicant is retired from the practice of optometry and not currently engaged in such practice either full time or part time and has, prior to retirement, maintained full, unrestricted licensure in good standing in any licensing jurisdiction of the United States.

(2) The volunteer licensee shall be permitted to practice optometry only in the noncompensated employ of public agencies or institutions, not for profit agencies, not for profit institutions, nonprofit corporations, or not for profit associations which provide health care specialty services only to indigent patients in areas which are underserved by that specialty or critical need population areas of the state, as determined by the Board, or pursuant to Article 8 of Chapter 8 of Title 31.

(3) The person applying for the volunteer license under this Code section shall submit to the Board a copy of his or her health care specialty degree, a copy of his or her health care specialty license in his or her current or previous licensing and regulating jurisdiction, and a notarized statement from the employing agency, institution, corporation, association, or health care program on a form prescribed by that board, whereby he or she agrees unequivocally not to receive compensation for any health care specialty services he or she may render while in possession of the special license;

(4) Any applicant for a volunteer license who has not been actively engaged in the direct observation and treatment of patients within the five (5) years immediately preceding the date of application may, at the Board's discretion, be required to pass an examination administered by the Board or a testing agency designated and approved by the Board;

(5) If the Board determines that an applicant has demonstrated an inability to practice optometry with reasonable skill and safety to the public, and reasonable grounds exist to inquire into an applicant's mental and physical capacity, the applicant may be asked to submit a statement from a physician attesting to the applicant's physical and mental capacity;

(6) If the applicant is not in compliance with the continuing education requirements established by the Board at the time application is made for the volunteer license, the applicant may be issued a nonrenewable temporary license to practice for six months provided the applicant is otherwise qualified for such license. During the period of time the licensee maintains such license, the licensee must comply with the continuing education requirements established by the Board;

(7) There shall be no application or licensing fee for initial issuance of a volunteer license;

(8) Volunteer licenses shall expire at the close of December 31st in all odd-numbered years. Fees for license renewal shall be assessed as shown on the schedule of fees adopted by the Board;

(9) Any other provisions of Chapter 30, Title 43 of the Official Code of Georgia Annotated not inconsistent with the intent and purpose of the Georgia Volunteers in Health Care Specialties Act, O.C.G.A. [43-1-28](#), shall be fully applicable to all licensed optometrists.

Cite as Ga. Comp. R. & Regs. R. 430-2-.08

AUTHORITY: O.C.G.A. §§ [43-1-19\(a\)\(10\)](#), [43-1-25](#), [43-1-28](#), [43-1-28\(c\)\(1\)](#), [\(2\)](#), [43-1-28\(d\)](#), [43-1-28\(e\)](#), [43-1-28\(f\)](#), [43-1-28\(g\)](#), [43-30-5](#), [43-30-8](#).

HISTORY: Original Rule entitled "Volunteers in Optometry" adopted. F. Apr. 26, 2006; eff. May 16, 2006.

Amended: F. Sep. 2, 2022; eff. Sep. 22, 2022.

Department 509. GEORGIA BOARD OF PRIVATE DETECTIVE AND SECURITY AGENCIES

Chapter 509-3. MINIMUM ACCEPTABLE TRAINING PROGRAM TO BE SUBMITTED BY LICENSEES

509-3-.06 Basic Training Requirements for Private Detectives

(1) Effective July 1, 2022 a minimum of seventy (70) hours of classroom instruction is required for all private detective licensees and registered private detective employees consisting of instruction in the following topics:

(a) Course introduction

1. Introduction to the Private Detective business and the types of investigations performed by the private detective

i. Role of the Private Detective

ii. Scope of practice and authority

2. Overview of O.C.G.A. 43-38-(1-16) as it relates to the private detective business

i. Introduction to the Georgia State Board of Private Detective and Security Agencies Act

ii. Minimum qualifications for licensure and disqualifiers

iii. Application procedures

3. Review of Georgia Private Detective and Security Agencies Administrative Board Rules

i. Organization (509-1)

ii. Minimum qualifications for licensure and issuance of licenses ([509-2-.02](#) and [509-2-.03](#))

iii. Training guidelines (509-3-.06)

iv. Continuing Education Guidelines and Requirements ([509-3-.12](#))

v. Issuance of Weapons Permits by the board ([509-4-.01](#))

I. Concealed permit justifications

II. Annual re-qualifications requirements

III. Review of permitted weapons

IV. Weapon Discharge reports ([509-4-.05](#)) and review of forms

vi. Confusing names ([509-4-.03](#))

vii. Advertising and Promotional Materials ([509-4-.08](#))

viii. Change of address and location ([509-6-.01](#))

ix. Change in ownership ([509-6-.02](#))

(b) Criminal Procedure - An overview of O.C.G.A. Title 17, including but not limited to:

1. An overview of the Georgia laws of Arrest

i. What constitutes an arrest (O.C.G.A. § [17-4-1](#))

ii. Arrests without a warrant by law enforcement (O.C.G.A. § [17-4-20](#))

iii. Warrants for Arrest (O.C.G.A. § [17-4-40](#))

iv. Review of warrant affidavits and minimum requirements (O.C.G.A. § [17-4-41](#))

v. Application procedures for warrants (O.C.G.A. § [17-4-47](#))

vi. Limited detention by certain private individuals for certain offenses (O.C.G.A. § [17-4-80](#))

2. Search and Seizure - A review of relevant seizure laws as it relates to the profession. To include but not limited to:

i. An overview of the 4th Amendment

ii. Relevant and updated case laws and court decisions

iii. Law enforcements role in obtaining search warrants and affidavits for warrants (O.C.G.A. § [17-5-20](#))

iv. Execution of search warrants by law enforcement, no knock clauses and inventories

v. Legal standards for lawful seizures with or without a search warrant

(c) Georgia Criminal Law Overview

1. Definition of a crime (O.C.G.A. § [16-2-1](#))

2. Define jurisdiction and venue

3. Define the phrases "elements of the offense" and "corpus delicti"

4. Instruction on principal misdemeanors and felonies relevant to the profession

5. Defenses to criminal prosecution (O.C.G.A. § [16-3-\(1-6\)](#))

(d) Georgia Rules of Evidence - An overview as it relates to evidentiary rules of the courts under Title 24

1. Define evidence and classifications of evidence (Direct, Real, Indirect, Circumstantial)

2. Admissibility of evidence (Material, relevant and competent)

3. Review of case laws (i.e. Mapp vs. Ohio and Exclusionary Rule)

4. Hearsay evidence (O.C.G.A. § [24-8-802](#))

5. Character evidence

6. The Best Evidence Rule

7. Documentary evidence and authentication for court (O.C.G.A. § 24-10-(1002-1007))

8. Privileged communication (O.C.G.A. § [24-5-501](#))

9. Use of lay witnesses and expert witnesses (O.C.G.A. § [24-7-701](#) and O.C.G.A. § [24-7-702](#))

(e) Interviewing Techniques and Methodology

1. Instruction on proper methods of conducting an interview

i. Preparation

ii. Approaches and rapport building

iii. Documentation

2. Interviews and interrogations

i. De-escalating a hostile witness

ii. Questioning techniques

iii. Indicators of deception

iv. Obtaining confessions and admissions

v. Admissibility of statements

(f) Documentation and Report writing

1. Proper note taking and recording pertinent information

2. Opinion vs. factual statements

3. Elements of an effective investigative report

4. Confidentiality and legal issues

5. Submission guidelines and board rules (Board Rule [509-4-.06](#))

(g) Overview of the United States Legal System

1. Review the court system and jury trial procedure

2. An overview of criminal law concepts

i. Burden of proof

ii. Beyond a reasonable doubt

3. An overview of civil law concepts

i. Totality of circumstances

- ii. Preponderance of evidence
- 4. Review jurisdiction and venue as it relates to federal, state and local court systems
- 5. Appellate Courts and the path of an appeal to the State and Federal Supreme court
- (h) Courtroom Testimony
 - 1. Overview of relevant terms and definitions to include but not limited to:
 - i. Court personnel and their roles (i.e. Judge, Prosecutor, Public Defender, Court clerk, Court reports)
 - ii. Discovery
 - iii. Motions (i.e. Motions to dismiss, suppress evidence etc.)
 - iv. Grand Jury
 - v. Voir Dire Process
 - 2. Pre-trial responsibilities
 - 3. Preparation for court
 - 4. Appearance and demeanor in court
 - 5. Direct Examination and Cross Examination
 - 6. Steps to proper testimony under oath
 - (i) Sources of Information - Instruction on how to develop leads, conduct database searches and legal means of investigative research. Lecture must include but is not limited to:
 - 1. Use of investigative and proprietary databases
 - 2. Open source intelligence collection (OSINT)
 - 3. Government agencies
 - 4. The Freedom of Information and the Georgia Open Records Act (O.C.G.A. § [50-18-70](#) et seq.)
 - i. Legal issues and exempt records
 - ii. Sample of a FOIA or open record request
 - 5. Instruction on how to conduct court records research
 - 6. Permissible purposes, privacy concerns, data breaches and compliance with the Graham Leech Bliley Act
- (j) Surveillance and Observation - A minimum of four hours in the methodology of covert surveillance. Lecture must include but is not limited to:
 - 1. Preparation and advance work prior to surveillance
 - 2. Reasonable expectation of privacy and the Georgia Eavesdropping Act (O.C.G.A. § [16-11-60](#) et seq.)

3. Criminal trespass and stalking statutes (O.C.G.A. § [16-7-21](#) and O.C.G.A. § [16-5-90](#))
 4. Elements of surveillance (i.e. foot, mobile, stationary)
 5. Employing methods of surveillance
 6. Proper videography, documentation and reporting
 7. Counter surveillance techniques
- (k) Undercover Operations - a review of methods used to perform undercover and covert investigations
1. Developing the undercover strategy
 2. Information and planning the operation
 3. Operative selection and placement
 4. Evidence gathering
 5. Reporting guidelines and points of contact
 6. Operative extraction
 7. Safety guidelines and legal issues
- (l) Incident and Crime scene analysis and investigation
1. Overview of police procedures during crime scene processing
 2. Protection of the scene
 3. Sketching, photographing and documenting the scene
 4. Search methodology and evidence collection
 5. Chain of custody
 6. Modus Operandi
 7. Incident and Accident investigation (i.e. car accidents, falls, first report of injuries, workplace thefts)
 8. Solvability factors in criminal investigation
- (m) Criminal Defense and Due Process Investigations
1. Role of the private detective in the defense case
 2. Uncovering reasonable doubt
 3. 14th Amendment protections
 4. Work product privilege
 5. Statutory justifications

(n) Missing Persons and Locating Individuals

1. Methods of locating individuals
2. Working with law enforcement agencies on missing persons
3. Investigative techniques and sources of information
4. Interference with custody and kidnapping laws
5. Hague Convention

(o) Insurance Investigations

1. A lecture that encompasses key terms used by special investigations units, claims adjusters and insurance clients that include but not limited to:

- i. Subrogation
 - ii. Claimant
 - iii. Underwriter
 - iv. Agent
2. Role of the Special Investigative Unit
 3. Insurance fraud indicators
 4. Workers compensation claims
 5. Slip and fall claims
 6. Auto accidents
 7. Property theft and premises liability
 8. Tort law

(p) Family law and domestic investigations

1. Overview of Georgia divorce law (i.e. Ground for divorce, fault, no fault divorce etc.)
 - i. Documenting infidelity and evidence requirements
 - ii. Privacy issues and relevant laws
 - iii. Working with attorneys
2. Child custody investigations
 - i. Factors in child custody disputes and best interests of the child (O.C.G.A. § [19-9-3](#))
3. Legal issues in surveillance, Georgia Eavesdropping act, relevant case laws, privacy and precedent

(q) Specialized investigations - Lecture overview of specialized areas of the private detective practice

1. Due diligence investigations
2. Background investigations
 - i. Permission waivers
 - ii. Compliance with the Fair Credit Reporting Act
3. Corporate Investigations
4. Computer Crime Investigation
5. Retail security
- (r) Protective security
 1. Threat assessment investigations
 2. Overview of client protection
 3. Review of conducting an advance
 4. Formations and performing details
- (s) Case management
 1. Client intake procedures
 2. Case file organization
 3. Case presentations to clients
- (t) Business Acumen
 1. Advertising and marketing (Board Rule [509-4-.08](#))
 2. Client relations and customer service
 3. Contracts and retainer agreements
 4. Invoicing and billing
 5. Setting fees for services
 6. Investigative Reports (Board Rule [509-4-.06](#))
 7. Using subcontractors
 8. Confidentiality and privacy
- (u) Investigative Ethics
 1. Transparency
 2. Client communications

3. Avoiding conflict of interest

4. Understanding ethical obligations

(v) A two hour examination should be given at the completion of the course covering all subjects, a minimum passing score of 75% being one of the requirements for qualification. These records shall be subject to inspection, upon request by the Board or its representative.

(2) In addition to the requirements in paragraph (1), all private detective license holders and registered private detective employees who will be authorized to carry a handgun must complete the applicable firearms training curriculum as set forth in Board Rules [509-3-.08](#) and/or [509-3-.10](#).

Cite as Ga. Comp. R. & Regs. R. 509-3-.06

AUTHORITY: O.C.G.A. §§ [43-1-25](#), [43-38-4\(d\)\(1\), \(3\)](#), [43-38-6\(9\)](#), [43-38-7\(b\)\(1\)](#), [43-38-10.1\(b\)\(1\)](#).

HISTORY: Original Rule entitled "Concealed-Armed Private Detective Personnel" was filed as Emergency Rule 509-3-0.8-.06 on October 13, 1981; effective October 7, 1981, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency.

Amended: Emergency Rule 509-3-0.8-.06 repealed and permanent Rule of same title adopted. Filed December 15, 1981; effective January 4, 1982.

Repealed: New Rule of same title adopted. F. Apr. 5, 2002; eff. Apr. 25, 2002.

Repealed: New Rule entitled "Basic Training Requirements for Private Detectives" adopted. F. Dec. 12, 2006; eff. Jan. 1, 2007.

Amended: F. July 6, 2022; eff. July 26, 2022.

Note: Correction of non-substantive typographical errors, subparagraphs (1)(a)2. and (1)(b), "OCGA" to "O.C.G.A."; subparagraph (1)(a)3. ii, "509-2 .02" to "509-2-.02"; subparagraph (1)(m)3., "amendment" to "Amendment"; subparagraph (1)(n)4., "interference" to "Interference", as requested by the Board. Effective September 12, 2022.

**Department 515. RULES OF GEORGIA PUBLIC SERVICE
COMMISSION**

Chapter 515-12. TELEPHONE SERVICE

Subject 515-12-1. TELEPHONE SERVICE

515-12-1-.38 Telecommunications Relay Service

(1) **Monthly Maintenance Surcharge.** All local exchange telephone companies in this state, except those operated by telephone membership corporations, shall impose a monthly maintenance surcharge on all residential and business local exchange access facilities. "Exchange access facility" means the access from a particular telephone subscriber's premise to the telephone system of a local exchange telephone company. "Exchange access facility" includes local exchange company provided access lines, private branch exchange trunks, and centrex network access registers, all as defined by tariffs of telephone companies as approved by the Commission or where approval is not required as published online on the telephone companies' websites. The amount of the surcharge shall be determined by the Commission based upon the amount of funding necessary to accomplish the purposes of O.C.G.A. § [46-5-30](#) and provide the services on an ongoing basis; however, in no case shall the amount exceed 20¢ per month.

(2) **Surcharge Language.** The Monthly Maintenance Surcharge shall appear on customer bills as "Georgia Telecommunications Relay Service Surcharge." If the number of characters in "Georgia Telecommunications Relay Service Surcharge" exceeds the number of characters in the local exchange carrier's billing software or if the full text will not fit on one line, "Georgia TRS Surcharge" may be used instead.

(3) **Quarterly Reports and Remission of Funds.** Each local exchange carrier that is required to impose the Monthly Maintenance Surcharge shall submit quarterly via email a report to the Commission Staff indicating the monies collected from its customers during each quarter. The report shall be submitted to Staff and the monies collected from customers shall be remitted to the fund designated for the Telecommunications Relay Service no later than the thirtieth calendar day following the close of each quarter beginning with the fourth quarter of calendar year 2022.

Cite as Ga. Comp. R. & Regs. R. 515-12-1-.38

AUTHORITY: O.C.G.A. §§ [46-2-20](#), [46-2-30](#), [46-5-30](#).

HISTORY: Original Rule entitled "Telecommunications Relay Service" adopted. F. Sep. 1, 2022; eff. Sep. 21, 2022.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-7. INCOME TAX DIVISION

Subject 560-7-8. RETURNS AND COLLECTIONS

560-7-8-.57 Qualified Rural Hospital Organization Expense Tax Credit

(1) **Purpose.** The purpose of this regulation is to provide guidance concerning the administration of the tax credit under O.C.G.A. § [48-7-29.20](#).

(2) **Coordination of Agencies.** The Georgia Department of Community Health is the state agency responsible for approving rural hospital organizations and administering O.C.G.A. § [31-8-9.1](#). The Department of Community Health shall maintain a current list of approved rural hospital organizations on its website.

(3) **Definitions.** As used in this regulation, the terms "qualified rural hospital organization expense" and "rural hospital organization" shall have the same meaning as in O.C.G.A. § [48-7-29.20](#).

(4) **Credit Amount.** From January 1 to June 30 of each calendar year of the credit, the amount of qualified rural hospital organization expense tax credit allowed a taxpayer shall be as follows:

(a) For an individual taxpayer, the credit amount shall not exceed the actual amount expended or \$5,000, whichever is less.

(b) For an individual taxpayer filing married filing separate, the credit amount shall not exceed the actual amount expended or \$5,000, whichever is less.

(c) For individual taxpayers filing married filing joint, the credit amount shall not exceed the actual amount expended or \$10,000, whichever is less.

1. Example: Taxpayers, married couple filing joint, request preapproval for the qualified rural hospital organization expense tax credit for calendar year 2023 by electronically submitting Form IT-QRHOE-TP1 through the Georgia Tax Center. On Form IT-QRHOE-TP1 Taxpayers' intended contribution for 2023 is \$7,100, therefore the Department preapproves Taxpayers for \$7,100. Taxpayers make a \$3,000 donation to the rural hospital organization within 180 days of receiving preapproval from the Department and before the end of 2023 (this is the only amount contributed by taxpayers to an approved rural hospital organization in 2023). When taxpayers file their 2023 Georgia income tax return, Taxpayers can only claim \$3,000 qualified rural hospital organization expense tax credit (which is the actual amount contributed), and the extra \$4,100 that was preapproved but not contributed cannot be claimed by Taxpayers and cannot be carried forward. Any amount of the \$3,000 qualified rural hospital organization expense tax credit claimed but not used on the taxpayers' 2023 Georgia income tax return shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability.

(d) For an individual taxpayer who is a member of a limited liability company duly formed under state law (including a member who owns a single member limited liability company that is disregarded for income tax purposes), a shareholder of a Subchapter 'S' corporation, or a partner in a partnership, the credit is limited to the lesser of the actual amount expended or \$10,000 per tax year, whichever is less; provided, however, that the tax credits shall only be allowed for the Georgia income on which such tax was actually paid by such member of a limited liability company, shareholder of a Subchapter 'S' corporation, or partner in a partnership. In determining such Georgia income, the shareholder, partner, or member shall exclude any income that was subtracted on their Georgia return because the entity paid tax at the pass-through entity level in Georgia as provided in Regulation [560-7-3-.03](#). If the individual taxpayer is a member, partner, or shareholder in more than one pass-through entity, the total credit allowed cannot exceed \$10,000; the individual taxpayer decides which pass-through entities to include when computing Georgia income for purposes of the qualified rural hospital organization expense tax credit. All

Georgia income, loss, and expense from the taxpayer selected pass-through entities will be combined to determine Georgia income for purposes of the qualified rural hospital organization expense tax credit. Such combined Georgia income shall be multiplied by the applicable marginal tax rate to determine the tax that was actually paid. If the taxpayer is filing a joint return, the taxpayer's spouse may also claim a credit for their ownership interests and shall separately be eligible for a credit as provided in this subparagraph. If the taxpayer is preapproved for an amount that exceeds the amount that is calculated as allowed when the return is filed, the excess amount cannot be claimed by the taxpayer and cannot be carried forward.

1. Example: Taxpayer, an individual taxpayer, is the sole shareholder of A, Inc, an S corporation, Taxpayer is also a 50% partner, in BC Company, a partnership, and Taxpayer is also a 20% member of a limited liability company, XYZ Company, which is taxed as a partnership. Taxpayer requests preapproval for the qualified rural hospital organization expense tax credit for calendar year 2023 by submitting Form IT-QRHOE-TP1. On Form IT-QRHOE-TP1, Taxpayer estimates that the taxpayer's Georgia income from A, Inc. is \$120,000, and that Taxpayer's share of Georgia income from BC Company is \$60,000, Taxpayer chooses not to include any income from XYZ Company when estimating Georgia income for purposes of the qualified rural hospital organization expense tax credit; therefore the Department preapproves Taxpayer for \$10,000 qualified rural hospital organization expense tax credit (since \$10,000 is less than \$10,350 (5.75% of \$180,000)), the applicable marginal tax rate for 2023 is 5.75%. Taxpayer makes a \$10,000 donation to the rural hospital organization within 180 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files Taxpayer's 2023 Georgia income tax return, Taxpayer received a salary from A, Inc. of \$50,000 and A, Inc's actual Georgia income is \$60,000; Taxpayer's actual share of Georgia income from BC Company is \$20,000 and Taxpayer received a guaranteed payment from BC Company of \$15,000; Taxpayer's actual share of Georgia income from XYZ Company is \$5,000 (the Taxpayer can choose to include this company even though it was not considered at the time of preapproval), Taxpayer can only claim \$8,625 qualified rural hospital organization expense tax credit (which is 5.75% of the \$150,000 actual income from Taxpayer's selected pass-through entities), and the extra \$1,375 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the \$8,625 qualified rural hospital organization expense tax credit claimed but not used on the taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability.

(e) For a corporation taxpayer, fiduciary taxpayer, an S corporation that makes the election to pay tax at the entity level under O.C.G.A. § [48-7-21](#), or a partnership that makes the election to pay tax at the entity level under O.C.G.A. § [48-7-23](#), the credit amount shall not exceed the actual amount expended or 75 percent of the corporation's, fiduciary's, electing S corporation's, or electing partnership's income tax liability, whichever is less. S corporations and partnerships that elect to pay taxes at the entity level cannot pass the credit through to their members, partners, or shareholders. Fiduciary entities cannot pass the credit through to their beneficiaries.

1. Example: Taxpayer, a corporation, requests preapproval for the qualified rural hospital organization expense tax credit for calendar year 2023 by electronically submitting Form IT-QRHOE-TP1 through the Georgia Tax Center. On Form IT-QRHOE-TP1 Taxpayer's intended contribution for 2023 is \$100,000; and Taxpayer's estimated income tax liability for the 2023 tax year is \$150,000; therefore, the Department preapproves Taxpayer for \$100,000 qualified rural hospital organization expense tax credit for calendar year 2023. Taxpayer makes a \$100,000 donation to the rural hospital organization within 180 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files its 2023 Georgia income tax return, Taxpayer's income tax liability for tax year 2023 is \$80,000, Taxpayer can only claim \$60,000 of qualified rural hospital organization expense tax credit (\$60,000 is 75% of its actual Georgia income tax liability for tax year 2023, which is less than \$100,000), and the extra \$40,000 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the \$60,000 qualified rural hospital organization expense tax credit claimed but not used on the taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability.

2. Example: Taxpayer, a S corporation electing to pay tax at the entity level, requests preapproval for the qualified rural hospital organization expense tax credit for calendar year 2023 by electronically submitting Form IT-QRHOE-TP1 through the Georgia Tax Center. On Form IT-QRHOE-TP1 Taxpayer's intended contribution for 2023 is \$100,000; and Taxpayer's estimated income tax liability for the 2023 tax year is \$150,000; therefore, the Department preapproves Taxpayer for \$100,000 qualified rural hospital organization expense tax credit for calendar year 2023. Taxpayer makes a \$100,000 donation to the rural hospital organization within 180 days of receiving preapproval from the Department and before the end of 2023. When Taxpayer files its 2023 Georgia income tax return,

Taxpayer's income tax liability for tax year 2023 is \$80,000. Taxpayer can only claim \$60,000 of qualified rural hospital organization expense tax credit (\$60,000 is 75% of its actual Georgia income tax liability for tax year 2023, which is less than \$100,000), and the extra \$40,000 cannot be claimed by Taxpayer and cannot be carried forward. Any amount of the \$60,000 qualified rural hospital organization expense tax credit claimed but not used on the taxpayer's 2023 Georgia income tax return shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability but shall not be allowed to be passed through to and used by the shareholders.

(f) Except as provided in subparagraph (4)(e) of this regulation, when the taxpayer is a pass-through entity which has no income tax liability of its own, the tax credits will be considered earned by its members, shareholders, or partners based on their profit/loss percentage at the end of the year and the limitations of subparagraph (4)(d) of this regulation. The expenditure is made by the pass-through entity but all credit forms (preapproval, claiming, and reporting) will be filed in the name of its members, shareholders, or partners and the credit can only be applied against the shareholders', members', or partners' tax liability on their income tax returns. The pass-through entity shall provide all necessary information to the rural hospital organization so that the preapproval, claiming and reporting forms can be filed in the name of its members, shareholders, or partners.

(g) From July 1 to December 31 of each calendar year of the credit, the amount of qualified rural hospital organization expense tax credit allowed a taxpayer shall be as follows:

1. For an individual taxpayer, the credit amount shall not exceed the actual amount expended.
2. For an individual taxpayer filing married filing separate, the credit amount shall not exceed the actual amount expended.
3. For individual taxpayers filing married filing joint, the credit amount shall not exceed the actual amount expended.
4. For an individual taxpayer who is a member of a limited liability company duly formed under state law (including a member who owns a single member limited liability company that is disregarded for income tax purposes), a shareholder of a Subchapter 'S' corporation, or a partner in a partnership, the credit is limited to the actual amount expended per tax year; provided, however, that the tax credits shall only be allowed for the Georgia income on which such tax was actually paid by such member of a limited liability company, shareholder of a Subchapter 'S' corporation, or partner in a partnership. In determining such Georgia income, the shareholder, partner, or member shall exclude any income that was subtracted on their Georgia return because the entity paid tax at the pass-through entity level in Georgia as provided in Regulation [560-7-3-.03](#). From July 1 to December 31, the option to indicate pass-through entity ownership is not available on the Georgia Tax Center, since the credit is not limited for individual taxpayers during this time period. Regardless, such members may choose to apply the pass-through entity provisions when claiming the credit or such provisions are applied if subparagraph (4)(g)6. of this regulation applies.
5. For a corporation taxpayer, fiduciary taxpayer, an S corporation that makes the election to pay tax at the entity level under O.C.G.A. § [48-7-21](#), or a partnership that makes the election to pay tax at the entity level under O.C.G.A. § [48-7-23](#), the credit amount shall not exceed the actual amount expended or 75 percent of the corporation's, fiduciary's, electing S corporation's, or electing partnership's income tax liability, whichever is less. S corporations and partnerships that elect to pay taxes at the entity level cannot pass the credit through to their members, partners, or shareholders. Fiduciary entities cannot pass the credit through to their beneficiaries. See examples in subparagraph (4)(e) of this regulation.
6. Except as provided in subparagraph (4)(g)5. of this regulation, when the taxpayer is a pass-through entity which has no income tax liability of its own, the tax credits will be considered earned by its members, shareholders, or partners based on their profit/loss percentage at the end of the year and the limitations of subparagraph (4)(g)4. of this regulation. The expenditure is made by the pass-through entity but all credit forms (preapproval, claiming, and reporting) will be filed in the name of its members, shareholders, or partners and the credit can only be applied against the shareholders', members', or partners' tax liability on their income tax returns. The pass-through entity shall provide all necessary information to the rural hospital organization so that the preapproval, claiming, and reporting forms can be filed in the name of its members, shareholders, or partners.

(h) A taxpayer may apply to make a donation to multiple rural hospital organizations or may apply to make multiple donations to the same rural hospital organization or may apply to make a donation both before and after July 1; provided, however, each donation must be applied for separately.

(i) Unspecified or undesignated contributions will be treated as provided in O.C.G.A. § [48-7-29.20](#).

(5) **Credit Cap.** In no event shall the aggregate amount of tax credits allowed under O.C.G.A. § [48-7-29.20](#) exceed \$75 million per taxable year.

(6) **Per Individual Rural Hospital Organization Limitation.** For each calendar year of the credit, no more than \$4 million of credit shall be preapproved for any individual rural hospital organization. On the day and time any Form IT-QRHOE-TP1 is received for a calendar year that causes the per individual rural hospital organization limitation in this paragraph to be reached, then any subsequent applicants for such individual rural hospital organization shall be denied. There shall be no proration based on the date an application is received. The Department shall notify such individual rural hospital organization if the \$4 million limitation is reached. Such rural hospital organization shall within 15 days of the date of such notification, notify the Georgia Department of Community Health that the \$4 million limitation was reached.

(a) If a taxpayer is denied preapproval for this tax credit by the Department due to the per individual rural hospital organization limitation in paragraph (6) of this regulation, the taxpayer may reapply for preapproval and list a rural hospital organization from the Department of Community Health's list of approved rural hospital organizations that has not reached the per individual rural hospital organization limitation. For purposes of priority in case the credit cap is reached, the taxpayer's date of re-application will govern.

(7) **Individual Rural Hospital Organization Per Tax Type Preapproval Limitations.** Subject to the aggregate limit in paragraph (5) of this regulation and the per individual rural hospital organization limitation in paragraph (6) of this regulation, the Department shall only preapprove contributions for this tax credit in the following manner:

(a) From January 1st to June 30th of each calendar year of the credit, the Department shall only preapprove credits for each rural hospital organization from individual taxpayers in an aggregate amount not to exceed \$2 million, and from corporate, fiduciary, electing S corporation, and electing partnership taxpayers in an aggregate amount not to exceed \$2 million. The Department shall notify such individual rural hospital organization if either \$2 million limit is reached; and

(b) On the day and time any Form IT-QRHOE-TP1 is received for a calendar year that causes the per tax type preapproval limit in paragraph (7)(a) of this regulation to be reached, then any subsequent applicants for such tax type for such individual rural hospital organization shall be denied. There shall be no proration based on the date an application is received.

(c) If an individual taxpayer, or corporate, fiduciary, electing S corporation, or electing partnership taxpayer is denied preapproval for the tax credit between January 1st and June 30th of a calendar year, due to the limitation in paragraph (7)(a) of this regulation, then the taxpayer may reapply for preapproval on or after July 1st of that calendar year for such individual rural hospital organization but will not be given any priority over other applicants. Such taxpayer may alternatively reapply for preapproval for a different individual rural hospital organization. For purposes of priority in case the credit cap is reached, the taxpayer's date of re-application will govern.

(d) From July 1st to December 31st of each calendar year of the credit, the Department shall preapprove contributions from individual taxpayers and corporate, fiduciary, electing S corporation, and electing partnership taxpayers until the annual credit cap is reached.

(e) For all preapprovals requested for each calendar year of the credit, the Department shall review the reports required by paragraphs (14) and (15) of this regulation. In the event preapproved contributions are not contributed or the rural hospital organization fails to timely file the report required by paragraph (14) of this regulation or the taxpayer fails to timely file the report required by paragraph (15) of this regulation for the period for which a paragraph (15) report was required, the Department shall add any such uncontributed or not timely reported amount

to the amount available for each respective calendar year of the credit and adjust any used individual rural hospital organization limitation and adjust any used individual rural hospital organization per tax type preapproval limitation. Such uncontributed amount shall be added within a reasonable time of the Department's determination and until the end of the calendar year; and such amount shall be added directly to the total tax credit amount available for preapproval on the Georgia Tax Center and to the respective individual rural hospital's Georgia Tax Center available amount for preapproval. The Department shall notify the individual rural hospital organization of such adjusted limits. If such rural hospital organization had previously met the \$4 million limitation, they shall within 15 days of the date of such notification, notify the Georgia Department of Community Health of the additional rural hospital limitation amount. Any taxpayer previously denied preapproval of the credit because the annual credit cap had previously been reached, must reapply as provided in subparagraph (7)(c) of this regulation and will not be given any priority over other applicants.

(8) Mandatory Electronic Preapproval Application. The preapproval process allocates the credit caps. A taxpayer seeking preapproval to claim the tax credits under paragraph (4) of this regulation must electronically submit Form IT-QRHOE-TP1 through the Georgia Tax Center. The Department will not preapprove any qualified rural hospital organization expense tax credit where Form IT-QRHOE-TP1 is submitted or filed in any other manner. Each rural hospital organization shall be registered with the Department to facilitate the web-based preapproval process for Form IT-QRHOE-TP1.

(a) The taxpayer should not file Form IT-QRHOE-TP1 with the Department of Revenue until the taxpayer's recipient rural hospital organization is listed on the Department of Community Health's website. If the taxpayer's recipient rural hospital organization is not listed on the Department of Community Health's website at the time that the Department of Revenue attempts to verify the rural hospital organization's listing, the Department of Revenue shall deny the preapproval request. If at a later date the taxpayer's recipient rural hospital organization becomes listed, the taxpayer will have to submit a new Form IT-QRHOE-TP1 to the Department of Revenue.

(b) The qualified rural hospital organization expense tax credit shall be allowed on a first-come, first-served basis. The date and time the Form IT-QRHOE-TP1 is electronically submitted shall be used to determine such first-come, first-served basis. There shall be no proration based on the date an application is received.

(c) The Department will notify each taxpayer and the taxpayer's selected rural hospital organization of the contribution amount, the tax credit certificate number, and the tax credits preapproved and allocated to such taxpayer within thirty days from the date the Form IT-QRHOE-TP1 was received.

(d) The contribution must be made by the taxpayer within 180 days of the date of the preapproval notice received from the Department and within the calendar year in which it was preapproved.

(e) In the event it is determined that the contributor has not met all the requirements of O.C.G.A. § [48-7-29.20](#) and this regulation, then the amount of the qualified rural hospital organization expense tax credit shall not be preapproved or, if already claimed, the preapproved qualified rural hospital organization expense tax credit shall be disallowed. With respect to such disallowed credit, tax and interest shall be due.

(f) Notwithstanding any laws to the contrary, the Department shall not disallow donors' credits for contributions to rural hospital organizations if the Commissioner preapproved a donation for a tax credit prior to the date the rural hospital organization is removed from the Department of Community Health list pursuant to O.C.G.A. § [31-8-9.1](#), and all such donations shall remain as preapproved tax credits subject only to the donor's compliance with O.C.G.A. § [48-7-29.20\(e\)\(3\)](#) and this regulation.

(g) Once the calendar year limit is reached for a calendar year, taxpayers shall no longer be eligible for a credit pursuant to O.C.G.A. § [48-7-29.20](#), for such calendar year unless subsequently uncontributed amounts result in the calendar year limit not being reached. If any Form IT-QRHOE-TP1 is received after the calendar year limit has been reached, then it shall be denied and not be reconsidered for preapproval at any later date even in the event that the calendar year limit is subsequently not reached due to uncontributed amounts.

(9) Letter of Confirmation. Form IT-QRHOE-RHO1 shall be provided by the rural hospital organization to the taxpayer to confirm the contribution within 15 days of the contribution.

(10) **Claiming the Credit.** A taxpayer claiming the qualified rural hospital organization expense tax credit, unless indicated otherwise by the Commissioner, must submit Form IT-QRHOE-TP2 with the taxpayer's Georgia tax return when the qualified rural hospital organization expense tax credit is claimed. An electronically filed Georgia income tax return that includes the software's electronic Form IT-QRHOE-TP2 satisfies this requirement.

(11) **Carry Forward.** Any credit which is claimed but not used in a taxable year shall be allowed to be carried forward to apply to the taxpayer's succeeding five years' tax liability. However, any amount in excess of the credit amount limits in paragraph (4) of this regulation shall not be eligible for carry forward to the taxpayer's succeeding years' tax liability nor shall such excess amount be claimed by or reallocated to any other taxpayer.

(12) **Taxpayer Must Add Back Portion of Federal Deduction on State Return if Taxpayer Takes State Credit.** O.C.G.A. § [48-7-29.20\(g\)](#) provides that no qualified rural hospital organization expense tax credit shall be allowed under O.C.G.A. § [48-7-29.20](#), with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution to a bona fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue Code. If the taxpayer is allowed the state income tax deduction in place of the charitable contribution deduction as allowed by the Internal Revenue Service, for purposes of this paragraph such deduction shall be considered a charitable contribution to the extent such deduction is allowed federally. Accordingly, the taxpayer must add back to Georgia taxable income that part of any federal deduction taken on a federal return for which a Georgia qualified rural hospital organization expense tax credit is allowed under O.C.G.A. § [48-7-29.20](#).

(a) If a taxpayer's itemized deductions are limited federally (and therefore for Georgia purposes) because their Federal Adjusted Gross Income exceeds a certain amount, the taxpayer is only required to add back to Georgia taxable income that portion of the federal charitable deduction that was actually deducted pursuant to the following formula. The federal charitable deduction that must be added back to Georgia taxable income shall be the amount of the federal charitable contribution relating to the qualified rural hospital organization expense tax credit multiplied by the following ratio. The numerator is the amount of the itemized deductions subject to limitation and allowed as itemized deductions after the limitation is applied. The denominator is the total itemized deductions that are subject to limitation before the limitation is applied.

1. For example. A taxpayer has a \$2,500 charitable contribution relating to the qualified rural hospital organization expense tax credit (credit amount is \$2,500) and has property taxes of \$1,500 both of which are subject to limitation. The taxpayer also has investment interest expense of \$10,000 (which is not limited). Accordingly, the taxpayer's total itemized deductions before limitation are \$14,000. After applying the federal limitation, the taxpayer is allowed \$13,000 in itemized deductions. As such only \$3,000 (\$13,000 less the \$10,000 investment interest expense which is not limited) of the original \$4,000 charitable deduction and property taxes are allowed to be deducted. Applying the ratio from the subparagraph above, the taxpayer must add back \$1,875 of the charitable contribution to their Georgia taxable income ($(\$2,500) \times (\$3,000 / \$4,000)$).

(13) **Designation of Contributions.** The tax credit shall not be allowed if the taxpayer directly or indirectly designates the taxpayer's qualified rural hospital organization expense tax credit for the direct benefit of any particular individual, whether or not such individual is a dependent of the taxpayer.

(14) **Reports by Rural Hospital Organization.** Rural hospital organizations must submit a monthly Form IT-QRHOE-RHO2 to the Department of Revenue. The report shall be due within 90 days of the end of each respective month. The report shall be submitted electronically through the Georgia Tax Center. The report shall be prepared on a monthly basis regardless of the fiscal year of the rural hospital organization. If the rural hospital organization fails to timely file the report, the donor taxpayer shall not be allowed the credit. The taxpayer may again request preapproval for such denied donation subject to the credit caps. The report shall include the following for each respective month:

(a) The month and year that is being reported;

(b) The total number and dollar value of individual contributions and qualified rural hospital organization expense tax credits preapproved. Individual contributions include contributions made by those filing income tax returns as single, head of household, married filing separate, and married filing joint;

(c) The total number and dollar value of corporate, fiduciary, S corporation, and partnership contributions and qualified rural hospital organization expense tax credits preapproved;

(d) A list of donors (which includes the donor's name, address, and identification number), including the dollar value of each donation, the dollar value of each preapproved qualified rural hospital organization expense tax credit, and each Department issued tax credit certificate number; and

(e) Any other information required by the Commissioner.

(15) **Report by Donor.** Until the time the Department changed the Georgia Tax Center on June 26, 2019, each taxpayer that received preapproval of the qualified rural hospital organization expense tax credit had to report to the Department the amount of the contribution and the Department issued tax credit certificate number and had to provide a copy of the Form IT-QRHOE-RHO1 to the Department. Such information had to be submitted within 30 days of the date of the contribution and had to be submitted electronically through the Georgia Tax Center. If the taxpayer failed to timely file the report, the taxpayer shall not be allowed the credit. The taxpayer may again request preapproval for such denied donation subject to the credit caps.

(16) **Confirmation of Donations.** Upon the rural hospital organization's confirmation to the Department, as required by paragraph (14) of this regulation, of the receipt of donations that have been preapproved by the Department, any taxpayer preapproved by the Department shall receive the full benefit of the qualified rural hospital organization expense tax credit even though the rural hospital organization to which the taxpayer made a donation does not properly comply with the reports or filings required by O.C.G.A. § [48-7-29.20](#).

(17) **Website posting.** The Department shall post the following in a prominent location on the Department's website:

(a) All pertinent timelines relating to the tax credit, including but not limited to:

1. Beginning date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;
2. Ending date when contributions can be submitted for preapproval by donors for the January 1 to June 30 period;
3. Beginning date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period;
4. Ending date when contributions can be submitted for preapproval by donors for the July 1 to December 31 period; and
5. Date by which preapproved contributions are required to be sent to the rural hospital organization;

(b) The list and ranking order of rural hospital organizations eligible to receive contributions under O.C.G.A. § [31-8-9.1\(b\)\(1\)](#).

(c) A monthly progress report including:

1. Total preapproved contributions to date by rural hospital organizations;
2. Total contributions received to date by rural hospital organizations;
3. Total aggregate amount of preapproved contributions made to date; and
4. Aggregate amount of tax credits available; and

(d) A list of all preapproved contributions that were made to an unspecified or undesignated rural hospital organization and the rural hospital organizations that received such contributions.

(18) Preapproval Periods.

(a) **Beginning of an Approval or Preapproval Period.** Pursuant to O.C.G.A. § [48-2-39](#), when the approval or preapproval period (January 1 through December 31) for the qualified rural hospital organization expense tax credit begin on a Saturday, Sunday, legal holiday, or day on which the Federal Reserve Bank is closed, such beginning dates shall be postponed until the first day following which is not a Saturday, Sunday, legal holiday, or day on which the Federal Reserve Bank is closed. Preapprovals, which must be requested through the Department's Georgia Tax Center, may be submitted beginning at 8:00AM on such following day.

(b) **First-Come, First-Served Basis.** Any application submitted on a Saturday, Sunday, legal holiday, or day on which the Federal Reserve Bank is closed, shall be considered to have been submitted on such date and time and shall not be prorated based on the date the application is received. This paragraph shall only apply to an application submitted on a day following the beginning date of the approval or preapproval period as provided by subparagraph (18)(a) of this regulation.

(19) **Sunset Date.** O.C.G.A. § [48-7-29.20](#), the qualified rural hospital organization expense tax credit, shall be repealed on December 31, 2024.

(20) **Effective Date.** This regulation shall be applicable to years beginning on or after January 1, 2023. Years beginning before January 1, 2023 will be governed by the regulations of Chapter 560-7 as they existed before January 1, 2023 in the same manner as if the amendments thereto set forth in this regulation had not been promulgated.

Cite as Ga. Comp. R. & Regs. R. 560-7-8-.57

AUTHORITY: O.C.G.A. §§ [48-2-12](#), [48-7-29.20](#).

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